



# BULLETIN

## LEGISLATIVE UPDATE 2000:

The Nebraska Unicameral meets for 60 days this session, from January to April. Following is a summary and brief description of the major workers' compensation-related bills being addressed during the current legislative session.

### BILLS PENDING

**Legislative Bill 1209** — This bill would amend the Nebraska Criminal Code and Nebraska's Insurance Fraud Act to expand criminal prosecution and civil enforcement authority so that fraudulent claims involving workers' compensation self-insurers would be covered. The bill would also require these self-insurers to pay the annual fee paid by insurers to support the Department of Insurance Fraud Prevention Division. Advanced to General File on Feb. 2, 2000.

**Legislative Bill 1221** — This bill would amend sections 44-5016, 48-118, 48-122.01, 48-124, 48-128, 48-144.04, 48-155, 48-162.01, 48-162.02, 48-174, 48-179, 48-195, 48-196 and 48-1,107. In addition, a Committee Amendment to the bill would change sections 48-120.02, 48-145 and 48-145.04. Advanced to General File with the Committee Amendment on Feb. 9, 2000.

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State Capitol Building, Lincoln, NE 68509  
800-599-5155 (toll free in Nebraska only)  
402-471-6468 (Lincoln and out-of-state)  
402-471-2700 (fax)  
<http://www.nol.org/workcomp/>



## \* \* \* NOTICE \* \* \*

## WORKERS' COMPENSATION COURT RELOCATION SET FOR MARCH 1, 2000

Effective March 1, 2000, the Nebraska Workers' Compensation Court's State Capitol Offices, located on the 12<sup>th</sup> and 13<sup>th</sup> floors, will be temporarily relocated to the old Federal Courthouse, 129 North 10<sup>th</sup> Street, Lincoln, Nebraska. Office phone numbers will remain the same.

**Mail:** All mail, including certified, registered, and express mail should continue to be addressed to the court's post office box: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908.

**Deliveries:** When a physical location address is required (FedX, UPS, deliveries, etc.) please use: Nebraska Workers' Compensation Court, 129 North 10<sup>th</sup> Street, Suite 300, Lincoln, NE, 68508.

**Filings (By Mail):** All filings by mail should continue to be addressed to: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908

**Filings (In Person):** *Before 5:00 p.m., March 1, 2000:* 13<sup>th</sup> Floor, State Capitol. *Beginning 8:00 a.m., March 2, 2000:* 3<sup>rd</sup> Floor, 129 No. 10<sup>th</sup> Street

**Hearings:** *You are advised to call in advance of any hearings scheduled to confirm our location.*

We are advised we will be at our temporary location for approximately two years.

The Nebraska Workers' Compensation Court's staff at the 525 Building will remain at that location.

For more information, please call the court's toll-free information line at (800) 599-5155 for callers in Nebraska or (402) 471-6468 for out-of-state and Lincoln callers. Also, please check the court's website at <http://www.nol.org/workcomp/> for future updates. ❖

## LEGISLATIVE UPDATE 2000:

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- Sections one, two, five, six, eight and nine of the bill would change provisions relating to the proposed merger of the Second Injury Fund and the Vocational Rehabilitation Fund to create the Workers' Compensation Trust Fund.
- Sections three and four would change provisions regarding payment of death benefits to dependent children to extend the duration of such payments from age 18 to age 19.
- Section seven would eliminate a requirement that the presiding judge preside over and make all rulings at all review hearings held by the compensation court.
- Section eight would clarify that the compensation court may hire specialists in vocational rehabilitation without the requirement that they also be specialists in physical and medical rehabilitation. It would also provide that the court *may* approve certain service providers as qualified (such as physicians and health care facilities), rather than requiring the court to do so.
- Section ten would make changes regarding the procedures for petitions to clarify that return of service shall be made within seven days after the date the summons is issued by the court. The current wording of section 48-174 is contradictory in that it says both that the summons shall be returned within seven days after it is issued, and that it shall be returned within seven days from the filing of the petition.
- Section eleven would clearly state in section 48-179 that only "final" orders may be appealed. This would conform to existing wording

in section 48-182 and address a shortcoming noted by the Nebraska Supreme Court in the case of Thompson v. Kiewit Constr. Co., 258 Neb. 323 (1999).

- Sections twelve, thirteen and fourteen would strike existing requirements in sections 48-195, 48-196 and 48-1,1107 that the compensation court approve actions by the State Claims Board and the Risk Manager relating to adopting and promulgating rules, delegating handling of workers' compensation claims and purchasing insurance policies.
- Section fifteen of LB 1221 provides that the bill will become operative on July 1, 2000.
- The **Committee Amendment** to LB 1221 would clarify that workers' compensation managed care plans must provide adequate flexibility to allow employees to choose a physician from among those who provide services under the plan, and that an employee must be allowed to change the physician initially selected at least once. The current statutory language is ambiguous in that it can be read to state that an employee must be allowed to choose any provider of medical, surgical and hospital services, not limited to physicians, and that an employee has the right to change any provider of medical, surgical and hospital services, again not limited to physicians.
- The **Committee Amendment** would also change section 48-145 to clarify that an employer seeking to self insure must make application to the compensation court and meet minimum stan-

dards. The compensation court would be required to establish such minimum standards by rule and regulation. In addition, it would provide a method and circumstances under which approval to self insure may be suspended or revoked.

### BILLS IN COMMITTEE

**Legislative Bill 1269** — This bill would allow each judge of the compensation court to maintain a principal office at any location in Nebraska. Currently, the judges are required to maintain a principal office in Lancaster County. The bill also provides that staffing of the offices would be controlled by a majority vote of the Workers' Compensation Court judges. (Business and Labor Committee)

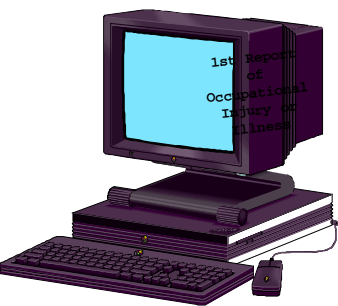
**Legislative Bill 1309** — This bill would require every employer subject to the Workers' Compensation Act to furnish to each employee at the time of hiring a written statement of the rights, benefits and obligations of injured employees and their employers under the Act. In addition, it would provide the court with the ability to award permanent partial disability benefits according to 48-121(2) in cases where "payment for loss of use and vocational rehabilitation benefits cannot restore the injured employee to his or her earning capacity prior to the injury as determined by the compensation court." Finally, the bill would require or permit the compensation court to assess certain costs against an employer who has transported, enticed, or actively recruited an employee from a distance of greater than 500 miles. (Business and Labor Committee) ♦

# ELECTRONIC DATA INTERCHANGE ADVISORY NOTICE

Beginning July 1, 2000, the Nebraska Workers' Compensation Court (NWCC) will require the electronic submission of all first reports of alleged occupational injury or illness filed by or on behalf of insurers, self-insureds, employers, or risk management pools. In the alternative, an implementation plan would need to be approved by the court no later than July 1, 2000.

The court's long-term strategy is to reduce paper handling through mandated EDI filings. Last July an advisory notice was mailed out in preparation for this mandate. On January 1, 2000, the court began rejecting any paper forms or hard copies (NWCC Form 1) that do not contain the mandatory and correct information that is

also required by EDI transmission. Incomplete forms are also returned.



## MANDATORY FIELDS INCLUDE:

- Business Name, City & State
- Insured Name
- Carrier FEIN, Name, Address, City, State
- Administrator's FEIN, Name, Address, City, State (if Claim Administrator Name is present.)
- Self Insured/TPA designation
- Carrier/Claim Administrator Claim # (unless business entity is Self Insured. Also mandatory if Self Insured uses a claim servicing company or third party administrator.)
- Employee Name, City, State
- Employee Social Security Number
- Date of Injury
- Where the Injury Occurred
- If Fatal, Date of Fatal Injury
- Type of Injury
- Part of Body Injured
- Cause of Injury

Also, please remember that only the original first report should be submitted. No duplicates should be submitted and facsimile copies will not be accepted.

For more information, please call the court's toll-free information line (800) 599-5155 (in Nebraska only), or (402) 471-6468 (for Lincoln and out-of-state callers). ❖

## EDI COMPLIANCE TRAINING PRESENTED IN IOWA

The International Association of Industrial Accident Boards and Commissions (IAIABC), along with the Iowa Division of Workers' Compensation and the Nebraska Workers' Compensation Court presented a seminar on Electronic Data Interchange (EDI) recently in Council Bluffs, Iowa. The course was designed to educate carriers, self-insured

employers, and third party administrators on the benefits and implementation of EDI for workers' compensation reporting.

Approximately 60 individuals registered for the day-and-a-half seminar. IAIABC staff familiarized attendees on how to implement EDI, what is needed to start using EDI, and the benefits of using EDI for reporting to jurisdic-

tions. Iowa and Nebraska representatives presented the expectations and requirements for implementing EDI in their jurisdictions.

To learn more about Nebraska's EDI project, contact the court's EDI coordinator, Bruce Mayfield, at 402-471-3527 (phone), 402-471-8231 (fax), or [brucem@wcc.state.ne.us](mailto:brucem@wcc.state.ne.us) (email). ❖

## NEW AND REVISED PUBLICATIONS AVAILABLE FROM THE NEBRASKA WORKERS' COMPENSATION COURT

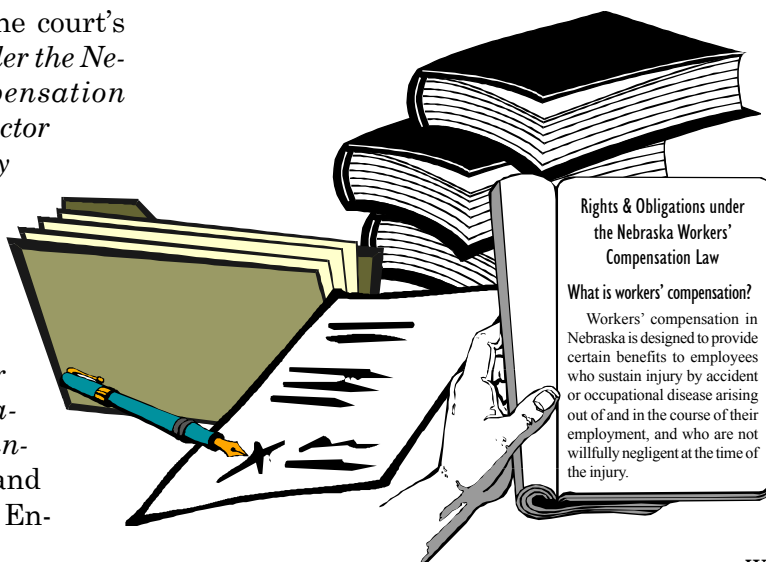
A number of publications revised and updated during the past few months are available from the Nebraska Workers' Compensation Court.

Most recently back from the print shop is a new pamphlet: *Informal Dispute Resolution & Mediation*, available at no cost. The court's latest *Rules of Procedure* and our *57th Annual Report* became available in December. The new *Rule Book* costs \$7 and the *Annual Report* costs \$5. The court's *Rights & Obligations under the Nebraska Workers' Compensation Law* and *Choosing a Doctor for a Work-Related Injury* pamphlets have also been recently updated. Both are available in English and Spanish at no cost. The court's form VR-42C, *Agreement for the Selection of a Vocational Rehabilitation Counselor*, has been revised and is now available in both English and Spanish.

The next project slated for publication is the court's revised *Law Book*, to be available for \$8.50. A new *Schedule of Medical and Hospital Fees* is also expected later this year.

To order any of the court's publications or forms, fill out and send the court's order form on the next

page (or send a written request) along with a check or money order for the total amount to the Nebraska Workers' Compensation Court, P. O. Box 98908, Lincoln, NE 68509-8908. For further information, please call the court's toll-free information line (800) 599-5155 (in Nebraska only), or (402) 471-6468 (for Lincoln and out-of-state callers).



The court also has a subscription service available. For an annual fee of \$30 the court will mail the following publications to you as they are updated after your subscription is received: the *Law Book*, *Rule Book*, *Bulletin*, *Annual Report*, *Rights & Obligations un-*

*der the Nebraska Workers' Compensation Law* (pamphlets in English and Spanish), *Choosing a Doctor for a Work-Related Injury* (pamphlets in English and Spanish), *Vocational Rehabilitation Services under Workers' Compensation* (pamphlets in English and Spanish), and court press releases. **Please note that the court's subscription service does not include the Schedule of Medical and Hospital Fees.** To take advantage of this service,

send in a written request including your company's name, contact person, address and phone number, along with a check or money order in the amount of \$30 made out to the court.

Several publications and forms produced by the Nebraska Workers' Compensation Court, as

well as information regard-

ing the court's operations, are available through Nebrask@Online as part of the court's effort to make this information more accessible to the public. Visit the court's Internet web site via Nebrask@Online at: <http://www.nol.org/workcomp/>. ❖

## HAVE YOU VISITED OUR WEBSITE YET?

Several publications and forms produced by the Nebraska Workers' Compensation Court, as well as information regarding the court's operations, are available on the court's Internet website at:

<http://www.nol.org/workcomp/>

## BUREAU OF LABOR STATISTICS SURVEY OF WORKPLACE INJURIES AND ILLNESSES: 1998 WORKPLACE INJURIES AND ILLNESSES CASE RATE AT LOWEST POINT SINCE SURVEY BEGAN

A total of 5.9 million injuries and illnesses were reported in private industry workplaces during 1998, resulting in a rate of 6.7 cases per 100 equivalent full-time workers, according to a survey by the Bureau of Labor Statistics (BLS), U.S. Department of Labor. Employers reported a 4 percent drop in the number of cases and a 3 percent increase in the hours worked compared with 1997, reducing the case rate from 7.1 in 1997 to 6.7 in 1998. The rate for 1998 was the lowest since the Bureau began reporting this information in the early 1970s.

The following tabulation on incidence rates for injuries and illnesses shows the decline in rates per 100 full-time workers since 1994:

	1994	1995	1996	1997	1998
<b>Private industry</b>	<b>8.4</b>	<b>8.1</b>	<b>7.4</b>	<b>7.1</b>	<b>6.7</b>
<b>Goods-producing</b>	<b>11.9</b>	<b>11.2</b>	<b>10.2</b>	<b>9.9</b>	<b>9.3</b>
<b>Service-producing</b>	<b>6.9</b>	<b>6.7</b>	<b>6.2</b>	<b>5.9</b>	<b>5.6</b>

Among goods-producing industries, manufacturing had the highest incidence rate in 1998 (9.7 cases per 100 full-time workers). Within the service-producing sector, the highest incidence rate was reported for transportation and public utilities (7.3 cases per 100 full-time workers), followed by wholesale and retail trade (6.5 cases per 100 workers).

This release is the second in a series of three releases covering 1998 from the BLS safety and health statistical series. The first release, in August 1999, covered work-related fatalities from the

1998 National Census of Fatal Occupational Injuries. In April 2000, a third release will provide details on the more seriously injured and ill workers (occupation, age, gender, race, and length of service) and on the circumstances of their injuries and illnesses (nature of the disabling condition, part of body affected, event or exposure, and primary source producing the disability). "More seriously" is defined in this survey as involving days away from work.

### LOST WORKDAY CASES

About 2.8 million injuries and illnesses in 1998 were lost workday cases, that is, they required recuperation away from work or restricted duties at work, or both.

The incidence rate for lost workday cases has declined steadily from 4.1 cases per 100 full-time workers in 1990 to 3.1 cases per 100 workers in 1998. The rate for cases with days away from work has declined for eight years in a row and, at 2.0 cases per 100 full-time workers in 1998, was the lowest on record. By contrast, the rate for cases involving only restricted work activity rose from 0.7 cases per 100 workers in 1990 to 1.2 cases in 1997 and remained at that level in 1998. The latter types of cases may involve shortened hours, a temporary job change, or temporary restrictions on certain duties (for example, no heavy lifting) of a worker's regular job. In

1998, the rate in manufacturing for days-away-from-work cases was lower than the rate for restricted-activity-only cases, 2.3 for days-away-from-work cases and 2.5 for restricted-activity-only cases. In all other divisions, the rate for days-away-from-work cases was higher than the rate for restricted-activity-only cases.

### INJURIES AND ILLNESSES

Injuries. Of the 5.9 million non-fatal occupational injuries and illnesses in 1998, 5.5 million were injuries. Injury rates generally are higher for mid-size establishments (those employing 50 to 249 workers) than for smaller or larger establishments, although this pattern does not hold within certain industry divisions. Eight industries, each having at least 100,000 injuries, accounted for about 1.5 million injuries, or 28 percent of the 5.5 million total. All but one of these industries were in the service-producing sector.

Illnesses. There were about 392,000 newly reported cases of occupational illnesses in private industry in 1998. Manufacturing accounted for three-fifths of these cases. Disorders associated with repeated trauma, such as carpal tunnel syndrome and noise-induced hearing loss, accounted for 4 percent of the 5.9 million workplace injuries and illnesses. They were, however, the dominant type of illness reported, making up 65 percent of the 392,000 total illness cases. Seventy-one percent of the repeated trauma cases were in manufacturing industries. ❖

## EDI INFORMATION ON THE COURT'S WEB SITE

The Nebraska Workers' Compensation Court maintains an Internet web site located at: <http://www.nol.org/workcomp/>. This web site includes a section devoted exclusively to Electronic Data Interchange including the following:

- The text of NWCC Procedural Rule 29 — First Report of Alleged Occupational Injury or Illness. Amendments to Rule 29 concerning electronic filing were adopted pursuant to a public hearing held October 27, 1998.
- Advisory notices concerning First Report Filing Compliance. Since this information is updated often, visitors to this page may now subscribe to be automatically notified by email when new advisory notices are posted.
- EDI Trading Partner Requirements. This includes links to the court's Electronic Reporting Initiative pamphlet, Trading Partner Requirements Package, IAIABC EDI Project web site, and our Definition for Detailed Claim Information Codes pamphlet.
- EDI Retrospective. This is a regularly updated report of the Workers' Compensation Court's progress in implementing EDI in Nebraska.
- A list of all current EDI Trading Partners. ❖

### LB 331'S NOTIFICATION REQUIREMENTS

Effective January 1, 2000, LB 331 requires compensation insurers, risk management pools, and self-insurers to provide the Nebraska Workers' Compensation Court's address and telephone number to injured employees or beneficiaries of deceased employees with instructions to contact the court for further information:

- At or near the time the compensation insurer, risk management pool, or self-insurer receives notice or has knowledge of the injury; and
- At or near the time of the denial of compensability or the denial, change in, or termination of benefits. ❖

### SPRING 2000

### BULLETIN



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State Capitol Building, Lincoln, NE 68509  
800-599-5155 (toll free in Nebraska only)  
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